IN THE HIGH COURT OF BOMBAY AT GOA

CIVIL REVISION APPLICATION NO.230 OF 2001

Mr. Manuel S. Gracias,
son of late Salvador Gracias,
of major age,
resident of Chauri,
Canacona,Goa ... PETITIONER

VERSUS

Smt. Dolorosa Viegas e
Carvalho, widow of
Benjamin Nicolau Carvalho,
of major age, landlady, and
resident of Colomb,
Canacona,Goa, represented
by her attorney, her son,
Luis Victor Jacinto Carvalho,
of major age, retired and
resident of H.No.644 A,
Alto Porvorim, Bardez,Goa ... RESPONDENT.

Petitioner in person.

Mr. Sudin Usgaonkar, Advocate for the Respondent.

CORAM : F.I. REBELLO,J.

DATED : JULY 17, 2003.

ORAL JUDGMENT

On the plea raised by the Defendant, a preliminary issue was framed as to whether the Civil Court would have jurisdiction to entertain the suit. The issue as to whether the Plaintiff is a tenant can be gone into by the Civil Court. However, if the Trial Court comes to the conclusion that the Defendant is a tenant, then considering Section 56 of the Goa Rent Act, the Court will cease to have

jurisdiction.

2. By the impugned Order the Trial Court has answered the issue as framed, in the negative. However, perusal of the reasons disclosed in paragraphs 7 and 8, it is clear that no finding has been given on the evidence before the Trial Court, whether on that evidence the Petitioner herein had proved that he was a tenant. It is required that the Trial Court must record such a finding.

3. Considering the above, the impugned Order will have to be set aside and the matter remanded to the Trial Court for consideration afresh by giving opportunity to both the Petitioner and the Respondent to lead additional evidence, if in law they are so advised to do.

4. Revision is partly allowed. The matter is remanded to the Trial Court for decision in terms as aforesaid in the Judgment.

F.I. REBELLO,J.

ac.